

INDEPENDENT CONTRACTOR EXEMPTIONS

The things you need to know

AGENDA

- Historical Independent Contractor Determinations
- *Wild v. Fregein Construction*
- Current ICEC Program
 - How do you get an ICEC?
 - What does holding (or not) the ICEC mean?
 - ICCU investigations
- Questions

HISTORICAL INDEPENDENT CONTRACTOR DETERMINATIONS

Facts

- “[T]he plaintiff, a boy five years of age, was riding on the front platform of the horsecar, with the knowledge of the driver, and that the car struck a stone, and jolted the plaintiff off, and ran over him.”

JENSEN V. BARBOUR, 15 MONT. 582 (1895)

Dispute

- If the driver of the horsecar was an independent contractor, the defendant owner could not be liable—the independence of the driver would cut off liability

JENSEN V. BARBOUR, 15 MONT. 582 (1895)

Analysis

- “To draw a distinction between independent contractors and servants is often difficult, and the rules which courts have undertaken to lay down on this subject are not always of simple application.”
- “After stating any rule which is to determine whether one is an independent contractor or a servant, it is very easy, by a little casuistry, to construe any person who performs a service to be an independent contractor. We have endeavored to point out such dangers.”

JENSEN V. BARBOUR, 15 MONT. 582 (1895)

Analysis

- Casuistry
 - “The use of clever but unsound reasoning, especially in relation to moral questions; sophistry”

Oxford English Dictionary

JENSEN V. BARBOUR, 15 MONT. 582 (1895)

ICs only produce goods

- “One may contract to produce a house, a ship or a locomotive and such house, or ship or locomotive produced is the ‘result.’ Such ‘results’ produced are often, and probably generally, by independent contractors. But we do not think that plowing a field, mowing a lawn, driving a carriage or horse care for one or for many trips a day is a ‘result’ in the sense that the word is used in the rule. Such acts do not result in a product. They are simply a service.”

JENSEN V. BARBOUR, 15 MONT. 582 (1895)

Modernization of IC definition

- “[A]n independent contractor is one who, exercising an independent employment, contracts to do a piece of work according to his own methods, and without being subjected to the control of his employer except as to the result of his work.”
- “The vital test in determining whether a person employed to do a certain piece of work as a contractor or mere servant, is the control over the work which is reserved by the employer. Stated as a general proposition, if the contractor is under the control of the employer he is a servant; if not under such control, he is an independent contractor.”

SHOPE V. CITY OF BILLINGS, 85 MONT. 302 (1929)

AB Test

- A: “[H]e must be free from the control of his employer, under his contract *and* in fact, in the performance of his services.
- B: “[H]e must be engaged in an independently established business.”
- Four parts of A (Admin. R. Mont. 24.35.202):
 1. Direct evidence of right or exercise of control
 2. Method of payment
 3. Furnishing of equipment
 4. Right to fire
- Need a convincing accumulation of undisputed evidence—else employee

*SHARP V. HOERNER WALDORF CORP., 178
MONT. 419, 584 P.2D 1298 (1978)*

WILD V. FREGEIN CONSTRUCTION

2003 MT 115, 315 Mont. 425, 68 P. 2d 855

Pre-Wild IC Program

- Mont. Code Ann. § 39-71-120 codified the AB Test
- Pay a fee to the Department, which issues an Independent Contractor Exemption Certificate
- Swear that you met AB Test
- Certificate in effect for three years

WILD V. FREGEIN CONSTRUCTION

Facts

- Wild was granted an independent contractor exemption certificate for roofing in 1993
- Renewed application through April 1, 2001
- “In July 2000, after Wild’s roofing business failed, he approached Russ Fregein looking for work. ... Wild told Fregein that he had pawned his roofing equipment and that he needed money to survive.” ¶ 8.
- Fregein offered Wild to work as at \$20/hour as an IC “or \$15 per hour as a ‘legit’ employee.” ¶ 9.

WILD V. FREGEIN CONSTRUCTION

Facts

- “Fregein did not receive a copy of Wild’s exemption until one or two weeks after Wild started to work. Fregein admitted that having an exemption was not a prerequisite for working at his company; he would have hired Wild even if Wild had not had an exemption; and Wild would not have been treated any differently, except for pay, if he were not able to produce an exemption.” ¶ 11
- “On October 17, 2000, Wild suffered serious and debilitating injuries to his head, shoulder and ribs when he fell off a roof while working for Fregein Construction.” ¶ 6.

WILD V. FREGEIN CONSTRUCTION

Issues

- “Whether § 39-71-403(3), MCA, as a matter of law, conclusively precludes any factual inquiry into whether an employer/employee relationship exists once the worker has been issued the exemption contemplated by § 39-71-401 (3), MCA.” ¶ 15.
- “Whether § 39-71-401 (3), MCA, read in conjunction with § 39-71-120, MCA, requires a good faith inquiry of the worker to determine that he or she does, in fact, meet the control and independently established business tests before the employer employees the worker as an IC.” ¶ 30.
- “Whether the public policy underlying the Act generally and as set out in § 39-71-105(1), (2) and (3), MCA, is violated when the employer offers to pay the worker a higher wage on the condition that the worker present an exemption at the time of hire.” ¶ 40.

WILD V. FREGEIN CONSTRUCTION

Analysis –Does ICEC preclude inquiry?

- “Nothing in § 39-71-401, MCA, precludes a factual inquiry into whether an employer/employee relationship exists at the time a worker is hired. On the contrary, we agree that an employer has a clear obligation to make at least a cursory determination of whether the worker is an IC in fact, as opposed to merely in name, before the employer can reasonably rely upon the exemption. An employer who fails to do so, with knowledge of the facts, should not be allowed to hide behind the exemption.” ¶ 25.
- Doing so does not render the exemption meaningless: “Instead, it would ensure that employers and ICs alike follow through with the intent of the statute, i.e., that once an exemption is presented to an employer, the employer will actually treat the worker as an IC and not, as in the case at bar, an employee.” ¶ 26.

WILD V. FREGEIN CONSTRUCTION

Analysis – Good faith inquiry?

- “Based on our discussion in Issue 1, we hold that reading §§ 39-71-120 and 401 (3), MCA, together does impose on the employer an obligation to make an initial good faith inquiry of the worker to determine whether the worker does in fact meet the control and independently established business tests before the employer employs the worker as an IC.” ¶ 31.
- “As Wild noted in his reply brief before this Court, if it looks like a duck, walks like a duck and quacks like a duck, it must be a duck. We would only add that it must be a duck even if it is holding a piece of paper that says it is a chicken.” ¶ 31.

WILD V. FREGEIN CONSTRUCTION

Analysis – Public policy re: higher pay to IC?

- “We are not saying that in this case, Fregein fraudulently induced Wild to work as an IC. We agree that Wild made a choice, yet it was Fregein that treated Wild as an employee rather than as an IC. Furthermore, had Fregein not suggested an IC relationship with more money, Wild would have been working as an employee.”
¶ 45.
- “Accordingly, we hold that the public policy underlying the Act generally and as set out in § 39-71-105, MCA, is violated when the employer offers to pay the worker a higher wage on the condition that the worker present an exemption at the time of hire.” ¶ 31.

WILD V. FREGEIN CONSTRUCTION

WHAT NEXT? – JUSTICE RICE'S WAY FORWARD

Justice Rice's Concurrence

The purpose of this determination is to eliminate the need for a hiring agent to make the complex inquiry about an exemption-holder's status as an independent contractor. No second guessing is necessary-the holder possesses a written certificate from the Department which conclusively establishes his status. That "settles" the issue. However, in this case, the Department's approach to the exemption statute, by its regulations and the issuance of the independent contractor certificate, has not implemented the underlying purpose of the statute.

The Certificate of Independent Contractor Exemption issued to Kelly Wild by the Department did not conclusively determine that Wild was an independent contractor who was exempt from coverage under the Act. It merely certified that Wild swore that he was independently engaged in an established trade, and then placed the duty of determining whether Wild was actually an independent contractor- the Department's duty under the exemption application process- squarely on the employer.

WILD V. FREGEIN CONSTRUCTION

CURRENT ICEC PROGRAM

Legislative Preamble

WHEREAS, the concurring opinion in the Wild decision further suggested that the Department of Labor and Industry strengthen the certification process to provide a conclusive determination of independent contractor status; and

WHEREAS, the Wild decision created a great deal of uncertainty in matters involving independent contractors and employees in the business community, with employers and independent contractors coming together to propose a consensus solution after participating in a study required by Senate Bill 270, passed by the 58th Legislature; and

WHEREAS, the Montana Legislature considers enacting legislation appropriate to effectively reverse the Wild decision and to restore the conclusive presumption of an independent contractor exemption certificate

2005 Mont. Laws 1546 (Ch. 448, Preamble)

NEW STATUTORY CONSTRUCTION

“ [A] person who regularly and customarily performs services at a location other than the person’s own fixed business location shall apply to the department for an independent contractor exemption certificate unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3. ”

Mont. Code Ann. § 39-71-417(1)(a)(i)

HOW DO YOU GET AN ICEC?

Mont. Code Ann. § 39-71-417

(4)(a) To obtain an independent contractor exemption certificate, the applicant shall swear to and acknowledge the following:

(i) that the applicant has been and will continue to be free from control or direction over the performance of the person's own services, both under contract and in fact; and

(ii) that the applicant is engaged in an independently established trade, occupation, profession or business and will provide sufficient documentation of that fact to the department.

HOW DO YOU GET AN ICEEC?

Mont. Code Ann. § 39-71-417

(5)(a) An applicant for an independent contractor exemption certificate shall submit an application under oath on a form prescribed by the department and containing the following:

- (i) the applicant's name and address;
- (ii) the applicant's social security number;
- (iii) each occupation for which the applicant is seeking independent contractor certification; and
- (iv) other documentation as provided by department rule to assist in determining if the applicant has an independently established business.

HOW DO YOU GET AN ICEC?

Admin. R. Mont. 24.35.111

(1) The applicant for an ICEC shall submit:

- (a) A completed ICEC application on a department-approved form bearing the applicant's original notarized signature, as required by ARM 24.35.112.
- (b) A fee, as required by ARM 24.35.121; and
- (c) An executed, notarized waiver conforming to the requirements of ARM 24.35.113

HOW DO YOU GET AN ICEC?

Admin. R. Mont. 24.35.112

(1) On the form provided by the department, the applicant shall provide all information designated as required. The form must be notarized, and the applicant must state, under oath, the veracity of all information on and attached to the form. Applicant needs 15 points.

Establishes the point system for ICEC applications (these are examples)

- Bank accounts
- FEIN
- Registration with the Secretary of State
- Lease agreements
- Business documentation

HOW DO YOU GET AN ICEC?

Admin. R. Mont. 24.35.121

Fees for ICEC

- \$125 for the original application and for each renewal

What does the fee fund?

- Mont. Code Ann. § 39-71-417(3) “The department shall deposit the application or renewal fee in an account in the state special revenue fund to pay the costs of administering the program”

HOW DO YOU GET AN ICEC?

Admin. R. Mont. 24.35.113

ICEC Waiver

- The applicant is engaged in each independently established trade, occupation, profession, or business that is specifically identified on the application form
- The applicant is responsible for all taxes related to the applicant's work as an independent contractor
- The applicant controls the details of how services are performed, both under contract and in fact, and the hiring agent retains only the control necessary to ensure the bargained for end result
- The applicant understands and agrees that if the ICEC is granted, the applicant is not eligible for and waives the right to workers' compensation or occupational disease related to work performed as an independent contractor in each independently established trade, occupation, profession, or business for which the ICEC is granted.

HOW DO YOU GET AN ICEC?

WHAT DOES HOLDING (OR NOT) THE ICEC MEAN?

Mont. Code Ann. § 39-71-417

(7)(a) When the department approves an application for an independent contractor exemption certificate and the person is working under the independent contractor exemption certificate, the person's status is conclusively presumed to be that of an independent contractor.

(b) A person working under an approved independent contractor exemption certificate has waived all rights and benefits under the Workers' Compensation Act and is precluded from obtaining benefits unless the person has elected to be bound personally and individually by the provisions of compensation plan No. 1, 2, or 3.

WHAT DOES HOLDING THE ICEC MEAN?

Mont. Code Ann. § 39-71-417

(7)(c) For the purposes of the Workers' Compensation Act, a person is working under an independent contractor exemption certificate if:

- (i) the person is performing work in the trade, business, occupation, or profession listed on the person's independent contractor exemption certificate; and

- (ii) the hiring agent and the person holding the independent contractor exemption certificate do not have a written or oral agreement that the independent contractor exemption certificate holder's status with respect to that hiring agent is that of an employee

WHAT DOES HOLDING THE ICEC MEAN?

McCone County v. ICCU, 2012 MTWCC 9

FACTS:

- Referral of case from Unemployment Insurance Division to ICCU. ¶ 11.
- Flat rate pay for a year of work. ¶ 5.
- Did not perform work from her own, fixed business locations. ¶ 7.
- Worker performed caretaking and maintenance for two cemeteries. ¶ 5.
- Set her own work schedule and provided all tools and equipment. ¶ 7.
- County issued a 1099 form worker's income. ¶ 9.

WHAT DOES HOLDING THE ICEC MEAN?

McCone County v. ICCU, 2012 MTWCC 9

ICCU DECISION:

- “[T]he ICCU Compliance Specialist found that, while performing services at the cemeteries for the County, Johnson met the ‘A’ test for independent contractor status as being free from undue control by the hiring agent.” ¶ 12.
- “[T]he ICCU Compliance Specialist found that, while performing services at the cemeteries for the County, Johnson met the ‘B’ test for independent contractor status by performing work in an independent occupation, profession, or business.” ¶ 13.

WHAT DOES HOLDING THE ICEC MEAN?

McCone County v. ICCU, 2012 MTWCC 9

FACTS:

- “In this case, it is undisputed that Johnson had neither workers’ compensation insurance nor an independent contractor exemption certificate pursuant to §§ 39-51-201(15) and 39-71-417, MCA.” ¶ 18.

WHAT DOES HOLDING THE ICEC MEAN?

McCone County v. ICCU, 2012 MTWCC 9

ANALYSIS:

- “In determining employment status for purposes of unemployment insurance, § 39-51-201(15), MCA, defines an independent contractor as someone ‘working under an independent contractor exemption certificate provided for in 39-71-417.’” ¶ 19.

WHAT DOES HOLDING THE ICEC MEAN?

McCone County v. ICCU, 2012 MTWCC 9

HOLDING:

- “Johnson did not have an independent contractor exemption certificate when performing her duties for the County. Although she may have satisfied both parts of the independent contractor test, the statute does not invoke the independent contractor test for situations such as the present one, and it is not the province of this Court to redefine the statute.” ¶ 24.
- “Therefore, and solely for the purposes of Title 39, Chapter 51, MCA, Johnson does not meet the definition of an independent contractor and is, therefore, an employee, as she had no workers’ compensation insurance on herself and had no independent contractor exemption certificate.” ¶ 25.

WHAT DOES HOLDING THE ICEC MEAN?

Reule v. UEF, 2017 MTWCC 3

FACTS:

- Reule was a prime contractor. ¶ 13.
- Reule hired Brock to work on the project. ¶ 13.
- Brock did not have an ICEC or a workers' compensation policy. ¶¶ 14, 24.
- Brock hired Albrecht to work on the project. ¶ 15.
- No dispute that Albrecht worked as an employee.
- Albrecht fell from the roof of the job, suffered injuries, and filed a claim for benefits. ¶ 19.

WHAT DOES HOLDING THE ICEC MEAN?

Reule v. UEF, 2017 MTWCC 3

ISSUE:

- Was Brock an Independent Contractor or something else?
- REMEMBER: Brock hired an employee, but did not hold an ICEC or have a workers' compensation policy.

WHAT DOES HOLDING THE ICEC MEAN?

Reule v. UEF, 2017 MTWCC 3

ANALYSIS:

- “This Court agrees with the UEF that, as a matter of law, Brock was not an independent contractor.” ¶ 37.
- “[T]here is no causal relationship between being an employer and an independent contractor; i.e., the fact that Brock was Albrecht’s direct employer does not mean that Brock was an independent contractor.” ¶ 38.
- “The law is clear that a person may not work as an independent contractor without an ICEC or insuring himself... .” ¶ 43.

WHAT DOES HOLDING THE ICEC MEAN?

Reule v. UEF, 2017 MTWCC 3

HOLDING:

- “The UEF is correct that to be an independent contractor for purposes of workers’ compensation under the new scheme, Brock was required either to obtain an ICEC through the DLI’s procedures or insure himself with workers’ compensation insurance. ... As a result, Brock was not an independent contractor as a matter of law; rather, he was a contractor.” ¶ 44.

WHAT DOES HOLDING THE ICEC MEAN?

Hallquist v. ICCU, 2010 MTWCC 16

FACTS:

- Unemployment Insurance audit.
- Multiple car mechanics working in the same shop.
- Each paid rent for their space separately to the building owner. ¶ 24.
- Mechanics could share the use of large agreement, and borrow small tools with permission. ¶ 27.
- Occasionally shared advice about difficult jobs. ¶ 28.
- No set schedules. ¶ 28.
- Could purchase parts through a shared account, with a set markup rate. Markup was used to pay overhead. ¶ 30.
- No one had an ICEC.

WHAT DOES HOLDING THE ICEC MEAN?

Hallquist v. ICCU, 2010 MTWCC 16

ANALYSIS:

- “However, I do not give the mechanics’ lack of independent contractor exemption certificates any weight in determining whether or not they were employees in this case. Section 39-71-417(1)(a), MCA, requires a person who regularly and customarily performs services at a location **other than the person’s own fixed business location** to apply for an independent contractor exemption certificates. It is undisputed that the mechanics all worked at a fixed business location Therefore, none of the mechanics had a statutory duty to apply for independent contractor exemption certificates.” ¶ 65.
- Applied the AB test and found independent contractors.

WHAT DOES HOLDING THE ICEC MEAN?

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-415

FIRST: What does not go to the ICCU for investigation?

- (1) If a claimant and insurer have a dispute over benefits and the dispute involves an issue of whether the claimant is an independent contractor or employee, either party may, after mediation pursuant to department rules, petition the workers' compensation judge for resolution of the dispute in accordance with 39-71-2905.

No benefits disputes—those proceed as part of the claim itself

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-415

What does go to the ICCU for investigation?

(2)(a) A dispute involving an employer, a worker, or the department and involving the issue of whether a worker is an independent contractor or an employee, but not involving workers' compensation benefits, must be brought before the independent contractor central unit of the department for resolution.

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-415

WHAT DOES THAT MEAN?

- “The legislative intent is to create a single administrative procedure for settling disputes over the status of workers as employees or independent contractors”

AND

- “The status of a worker as to whether he is an independent contractor or an employee implicates more than just collection of workers’ compensation premiums. It also involves the rights of the State to collect unemployment compensation contributions and has other State and Federal implications.

State Fund v. Sky Country, Inc., 239 Mont. 376, 780 P.2d 1135, 1136-37 (1987).

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-415

APPEAL RIGHTS

(2)(b)(i) A decision of the independent contractor central unit is final unless a party is dissatisfied with the decision and requests mediation pursuant to department rules within 15 days of the mailing of the decision by the independent contractor central unit.

(ii) At the conclusion of the mediation process, the mediator shall issue a report summarizing the status of the proceeding and shall mail a copy of the report to the parties.

(c) If after mediation the parties have not resolved their dispute concerning a worker's status as an independent contractor or an employee, a party may appeal the decision ... by filing a petition with the workers' compensation court within 30 days

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.203

DETERMINATIONS WHERE EXEMPTION CERTIFICATE MANDATORY

- (1) When a worker is required by 39-71-417, MCA, to have an independent contractor exemption certificate and does not, the worker is conclusively determined to be an employee for purposes of wage and hour, unemployment insurance, workers' compensation, and income tax.
- (2) When a worker holds an independent contractor exemption certificate and is working under that certificate as required by 39-71-417, MCA, the worker is conclusively determined to be an independent contractor for purposes of wage and hour, unemployment insurance workers' compensation, and income tax.

ICCU INVESTIGATIONS

Admin. R. Mont. 24.16.102 *et seq.*

WAGE AND HOUR?

- 24.16.102(6): “Independent contractor” means an individual working under an independent contractor exemption certificate provided for in 39-71-417, MCA.
- 24.16.7520(2): To be considered an independent contractor for wage claim purposes, the individual must hold and be working under an independent contractor exemption certificate pursuant to 39-71-417, MCA, where such is required. When an individual is not required to hold an independent contractor exemption certificate, the test for determining whether an individual is acting as an independent contractor for wage claim purposes is that found at ARM 24.35.202. [AB Test]
- 24.16.7520(3): An individual required to hold and work under an independent contractor exemption certificate pursuant to 39-71-417, who does not is an employee for wage claim purposes.

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.203

DETERMINATIONS WHERE EXEMPTION CERTIFICATE MANDATORY

- (3) When worker status is conclusively determined pursuant to this rule, the ICCU may issue a decision based solely on information sufficient to determine that conclusive outcome.
- (4) Notwithstanding the foregoing, the ICCU may, at its discretion, perform an investigation pursuant to ARM 24.35.202 or when a decision is needed for a program other than wage and hour, unemployment insurance, workers' compensation, or income tax. A decision may also be issued for the purposes of suspending or revoking the certificate pursuant to ARM 24.35.131 or issuing penalties, or for other purposes as the ICCU deems necessary.

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.202

DECISIONS REGARDING EMPLOYMENT STATUS

- Typical ICCU decision applies the AB Test
- Sends Worker Relationship Questionnaires to parties
- Can follow up
- Visit job sites

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.205

BINDING NATURE OF ICCU DECISIONS REGARDING EMPLOYMENT STATUS

- Applies at least to: workers' compensation, unemployment insurance, wage and hour, human rights, state income tax

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-418

SUSPENSION OF ICEC:

- Where “the employing unit exerts or retains a right of control to a degree that causes a certificate holder to violate the provisions of 39-71-417(4).”

WHAT DOES A SUSPENSION DO?

- Admin. R. Mont. 24.35.101(14): “Suspended” and “suspension” mean that a person’s ICEC is not applicable to a particular job or to a series of jobs for a particular hiring agent.

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-418

REVOCATION OF ICEC:

The department may revoke an independent contractor exemption certificate after determining that the certificate holder:

- (a) made misrepresentations in the application affidavit or certificate renewal form;
- (b) altered or amended the application form, the renewal application form, other supporting documentation required by the department, or the independent contractor exemption certificate;
- (c) failed to cooperate with the department in providing information relevant to the continued validity of the holder's certificate; or
- (d) does not have an independently established business as required by 39-71-417(4).

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.131(1)

REVOCATION OF ICEC:

- (a) The department is unable to locate the certificate holder or mail sent to the certificate holder at the address on file with the department is returned;
- (b) The certificate holder fails to cooperate with the department, including without limitation:
 - (i) Failure to provide information to the department upon request;
 - (ii) Failure to complete a worker relationship questionnaire upon request; or
 - (iii) Failure to notify the department of changes in contact information;
- (c) When revocation is required by law ...;
- (d) Any reason the department deems sufficiently egregious to warrant revocation of the ICEC.

ICCU INVESTIGATIONS

Admin. R. Mont. 24.35.101(12)

WHAT DOES REVOCATION DO?

“Revoked” and “revocation” mean that an ICEC is no longer in force or effect.

ICCU INVESTIGATIONS

Mont. Code Ann. § 39-71-418(3)

WHEN DO SUSPENSIONS AND REVOCATIONS TAKE EFFECT?

A decision by the department to suspend or revoke an independent contractor exemption certificate takes effect upon issuance of the decision. Suspension or revocation of the independent contractor exemption certificate does not invalidate the certificate holder's waiver of the rights and benefits of the Workers' Compensation Act for the period prior to the notice to the hiring agent by the department of the department's decision to suspend or revoke the independent contractor exemption certificate.

ICCU INVESTIGATIONS

Notify Clients about Program

Because worker status is conclusively determined based on whether the worker has an ICEC, the importance of advising clients about the program is paramount. While historically worker status questions could be resolved after the fact through a trial of facts surrounding the working relationship, the current model most often demands a single, narrow inquiry: whether the worker has an ICEC and is working under it. Employers should be advised to make sure of ICEC status before or at the time of hiring. This can be done either through the ICCU's website (mtcontractor.com) or by calling the Department (406-444-9029).

QUESTIONS?

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